

Inventors: Larry K .Wagner  
U.S. Serial No.: 10/667,554  
Filed: September 22, 2003  
Page 8

### **R E M A R K S**

Initially, applicant acknowledges allowance of claims 14-17. In addition, the Examiner has indicated that claim 13 contains allowable subject matter. Applicant has rewritten dependent claim 13 has new independent claim 18. It is now believed that claim 18 is in proper form for allowance and such action is earnestly solicited.

It is noted that the Examiner has rejected claims 1-13 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. More specifically, the Examiner has pointed out certain typographical errors in claims 6 and 13. In addition, with respect to claim 1, the Examiner has sought clarification of how the clamp tube has an “interfering position” and “non-interfering position.” Per the Examiner’s request, applicant has clarified independent claim 1 to more clearly define the positions of the clamp tube. Finally, the Examiner has questioned the scope of claims 7-13 because in claim 7, the preamble recites a “a trailer,” but claim 8 positively recites the trailer. Applicant has amended claim 8 to clarify the scope thereof.

In view of the foregoing, applicant believes that claims 1-13 are in proper form for allowance and withdrawal of the Examiner’s rejection under 35 U.S.C. § 112, second paragraph, is respectfully requested.

The Examiner has rejected claims 1-6 under 35 U.S.C. § 102(b) as being anticipated by Carson, U.S. Patent No. 3,877,624. In addition, claims 7-11 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Whitmarsh et al., U.S. Patent No. 6,802,095 and has rejected

claim 12 under 35 U.S.C. § 103(e) as being unpatentable for the Whitmarsh et al. '095 patent. As hereinafter described, applicant has amended independent claim 1 to more particularly define the invention for which protection is sought. With respect to claims 7-12, reconsideration of the Examiner's rejections is respectfully requested in view of the following comments.

Claim 1 defines a latch assembly for a ramp of a trailer. The ramp is movable between a stored position wherein the ramp is stored below the trailer and an extended position wherein the ramp extends from the trailer. The latch assembly includes a mounting tube and a clamp tube. The mounting tube extends along a longitudinal axis and is mountable to an underside of a trailer. A link arm pivotably connects the clamp tube to the mounting tube. The clamp tube is vertically movable between a first position wherein the clamp tube extends along a first axis generally parallel to the longitudinal axis and is vertically spaced from the mounting tube, and a second position wherein the clamp tube extends along a second axis generally parallel to the longitudinal axis and is adjacent the mounting tube. As hereinafter described, the cited reference does not show or suggest a latch assembly wherein the clamp tube is movable between positions along first and second axes wherein both are parallel to the longitudinal axis of a mounting tube.

The Carson '624 patent is directed to a rack for the top of a vehicle. The rack includes three transverse bows with a clamping means on the center bow so that the rack will accommodate ladders of different lengths. In the Examiner's opinion, Carson discloses a mounting tube 12, clamp tube 82 and the link arm 66 for connecting the clamp tube to the mounting tube. However, unlike the latch assembly of independent claim 1, clamp tube is not generally parallel to mounting tube 12 in either of its positions. More specifically, clamp tube 82 is transverse to mounting tube 12. Consequently, the '624 patent does not show each and every element of independent claim 1. Hence, it is believed that claim 1 defines over the cited reference and is in proper form for allowance.

Claims 2-6 depend either directly or indirectly from independent claim 1 and further define a latch assembly not shown or suggested in the art. It is believed that claims 2-6 are allowable as depending from an allowable base claim and in view of the subject matter of each claim.

Claim 7 defines a latch assembly for a ramp of a trailer. The ramp is movable between a storage position wherein the ramp is stored below the trailer and an extended position wherein the ramp extends from the trailing edge of the trailer. The latch assembly includes a movable handle extending along an axis and having leading and trailing ends. In addition, the movable handle has a first side and an opposite second side. A leading link arm pivotably connects the leading end of a movable handle to the trailer. A trailing link arm pivotally connects the trailing end of the movable handle to the trailer. The trailing link arm has an interfering portion extending from the movable handle. The interfering portion of the trailing link arm is movable between an interfering position wherein the interfering portion of the trailing link intersects the plane spaced from the second side of the handle in which the ramp is stored below the trailer and a non-interfering position. As hereinafter described, the cited reference does not show or suggest a latch assembly wherein the leading and trailer link intersect a plane generally co-planer with the first side of the handle and wherein the interfering portion of the trailing link arm intersects a plane spaced from the second side of the handle.

The Whitmarsh et al. '095 patent discloses a ramp assembly for installation in a vehicle. The ramp assembly incorporates a lift and lock mechanism that is configured to lock the ramp platform in place when the platform is in a stored configuration and that facilitates the lifting of the platform when the platform is deployed. The Examiner suggests that the '095 patent discloses a latch assembly including a movable handle 88, a leading link arm 92, and a trailing link arm 84 having interfering portion 86. As best seen in Fig. 6a, the interfering portion 86 of the trailing link arm 84 does not intersect a plane spaced from the second side of handle 88. At

Inventors: Larry K. Wagner  
U.S. Serial No.: 10/667,554  
Filed: September 22, 2003  
Page 11

best, interfering portion 86 of link arm 84 is generally co-planar with handle 88. This is a direct result of the fact that the ramp is not positioned below the trailer. If the structure disclosed in the '095 patent was modified such that ramp 12 was positioned below the trailer, interfering portion 86 of trailing link arm 84 would not retain trailer in the storage position. Hence, it is believed that independent claim 7 defines over the cited reference and is in proper form for allowance. Claims 8-12 depend either directly or indirectly from independent claim 7 and further define latch assembly not shown or suggested in the art. It is believed that claims 8-12 are allowable as depending from an allowable base claim and in view of the subject matter of each claim.

Applicant believes that the present application with claims 1-12 and 14-18 is in proper form for allowance and such action is earnestly solicited. A check in the amount of \$100.00 is enclosed for an additional independent claim. The applicant hereby authorizes the Examiner to charge payment of any other fees associated with this communication or credit any overpayment to Deposit Account No. 50-1170.

Respectfully submitted,

  
Peter C. Stomma, Registration No. 36,020

Dated: 12/22/08  
BOYLE, FREDRICKSON, NEWHOLM, STEIN & GRATZ, S.C.  
250 Plaza, Suite 1030  
250 East Wisconsin Avenue  
Milwaukee, WI 53202  
Telephone: (414) 225-9755  
Facsimile: (414) 225-9753  
Docket No.: 281.036